## O'SHEA PARTNERS LLP

521 FIFTH AVENUE 25th FLOOR NEW YORK, NEW YORK 10175

SEAN F. O'SHEA
MICHAEL E. PETRELLA
——
MARC D. FEINGOLD
JUSTIN J. GUNNELL
JOHN M. HENDELE IV
JULIE O'SHEA
ANDREW I. SOCKOL

(212) 682-4426 Fax (212) 682-4437 www.osheapartners.com

July 5, 2011

#### VIA ECF FILING

Honorable Brian M. Cogan United States District Court Eastern District of New York 225 Cadman Plaza Brooklyn, New York 11201

Re: United States v. \$587,536.45, et al., 1:10-cv-01866.

Dear Judge Cogan:

This firm represents Claimant Robert Potenza in the above-referenced civil forfeiture action. On December 3, 2010, third-party witness Shay Cavanaugh of JPMorgan Chase Bank ("Chase") was deposed at our office in New York, New York. Ms. Cavanaugh is listed in the Pre-Trial Order as a witness to be called at trial by Claimant, and was served with a subpoena to appear at trial.

Just this afternoon, we were contacted by JPMorgan Chase attorney Andrew R. Kosloff, who indicated that Chase may decline to produce Ms. Cavanaugh at trial, due to the fact that she resides in Texas.

In addition, Chase has produced a four page document that has been redacted in numerous places for reasons other than privilege. [Attached as Exhibit A hereto, Claimant 5322-5325]. Despite repeated requests, Chase has refused to produce an un-redacted copy of this document. Chase has also, in fact, refused to explain in any detail the basis for the redactions.

Accordingly, we plan to raise these issues at tomorrow's pre-trial conference.

## 

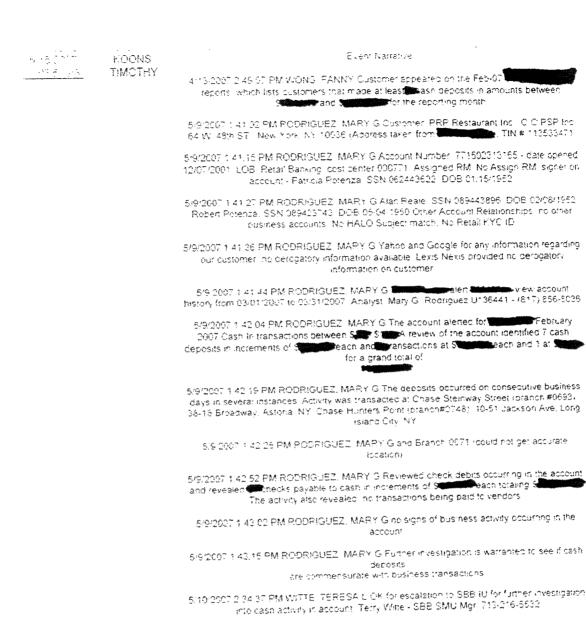
Respectfully submitted,

Ordrew J. Sochol

Andrew J. Sockol

cc: AUSA Brian Morris Andrew R. Kosloff

# Exhibit A



KCONS. 101437.83 TIMOTHY 40,2,27 118 10,733 KOONS.

TIMOTHY

Although the customer alerted for cash activity, further investigation is required to determine patterns and possible intent. Further investigation to follow

> 06/07/07 ¿ Report Even: Aled

Accounts #171502312165 ¿ PRP Restaurant Inc (TIN 1143533471) as owner, with Patricia Polenca (TIN 062444-3690 Dob 02/08/52), and Robert Potenza (TIN 0594242743 Dob 06/04/50) as signers

OPIGINAL INFORMATION A review of this peatomery's accounts was inviated when it became known that there were cash deposits which likely to be confirmed by further investigation, may be seen

CLAIMANT0005322 CONFIDENTIAL

SYSTEMS USED

KYC1 ¿ No neatones SEMS ¿ No new matches

Reviewed account activity and transaction images in Customer Assist and Instant Image Reviewed Signature cards on I-Vault and noted that only TiM was used as ID for this business account

#### CURRENT ACTIVITY REVIEW

Peview of account #771502313165 from 12/11/06 to 06/05/07 reveated the following

Checks within this account were used for two purposes. The first was to transfer funds to an account in the name PRP Restaurant at other banks, though the copies of checks to no account in the name PRP Restaurant at other banks, though the copies of checks to not confirm which banks the money is going to. The checks for this activity range from Succession of the checks. Succession has a process of Succession of the checks of Succession of the checks showed an aggregate in excess of Succession of S dates where no CTRs were filed. There were only TRs filed during the review period



Investigation is complete, pending manager review.

6/7/2007 KOONS. TIMOTHY 3:46 54 PM

Recommendation: No closure is recommended at this time, but this may change upon completion of customer contact. This will be initiated next week.

9.7/2007 4 21 <u>50 PM</u>

CAVANAUGH. SHAY L

Review of account #771502313165 from 36/06/2007 through 39/05/2007 revealed the

nas been withdrawn from this account in the form of cashed checks for An additional ch on sequential calendar days. The client did cash checks in this time frame with control server section in the remaining control server.

An additional Same has been deposited into this account in a deposits occurring on sequential calendar days which aggregate over \$

9/7/2007 4:02:21 PM CAVANAUGH. SHAY L

WARNING LETTER WILL BE SENT TO THE CLIENT AS IT DOES NOT APPEAR ONE WAS SENT DURING THE ORIGINAL REVIEW

CARA = CONTINUING

ACCOUNT CLOSURE = NO

9/14/2007 12 53 20 PM SHAY L

CAVANAUGH. Cash is being used to fill ATM Machine and also take singles for his adult establishment to to the dancers

His ATM Machine holds \$20K

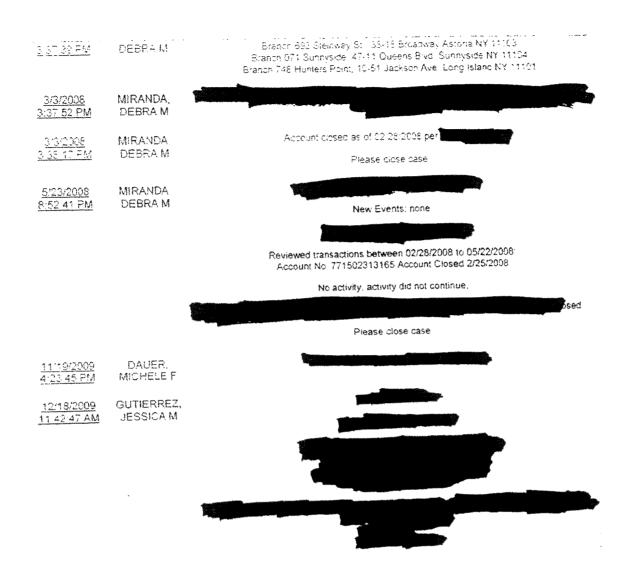
His pank days are Tues. Wed, and Thurs. He goes to two three branches to get enough singles on occasion since branches don't hold enough singles

The checks are being cashed at the based on business need and not an attempt to avoid tiling the CTP

CLAIMANT0005323 CONFIDENTIAL

	<del></del> .	He also stated that he doesn't not like to have a lot of cash on hand or to keep the same pattern due to the threat of being hero up
	STINSON, MICHELLE	
2 7.7		Time frame reviewed: 09/06/2007-12/04/2007
		Teller cash deposits gange from ano total and total
		Other credits. ACH preauthorized or payroll are RBL Lynk transactions
		Use of funds. Check debits range from the large fro
ig again Langaigh	STINSON, MICHELLE	Customer continues pattern of
<u>10/0/2020</u> 5/03/45/684	STINSON, MICHELLE	I spoke to Prakash Mehta (718-472-3296) at Sunnyside branch and asked if the branches were limited to the amount of cash they could give to a customer in one day. He stated that all the branches keep plenty of cash on hand. He did not know the customer but did not think the customer would need to go to different branches to get enough cash to meet business needs.
		ACCT CLOSURE RECOMMENDED due to continuing pattern of activity and branch feedback that limited cash available at the branches would cause the customer to go to multiple branches on some days.
त्रक्षात्रकारः इ.स.च्या	SALCEDO, SYLVIA M	Hi Michelie  Please process  Account Closing Event (606574 and advise RM or branch of domicile of account closure. Branch notification must be documented in the case comments.
		Thanks!
<u> </u>	SALCEDO, SYLVIA M	
منتم برحي	STINSON.	initiated acct closure
	MICHELLE	Notified acct officer Bib. S Singh of closure by email
<u> 43.0038</u> 3.35.12.514	MIRANDA. DEBRA M	New Event #1637864 Atchley for the month of December 2007 Transactions Cash-in.  Amount: S
^	MIRANDA,	Alen#  Reviewed transactions between 12/05/2007 to 02/28/2008  Account no. 377-502313166
	DEBRA M	Client continued to receive Ach credits from PBS LynF totaling S
		Others wrote checks to itself to be deposited with another institution ranging from stateling St
and decide end decide gradient	MIRANDA, DEBRA M	Unusual activity as follows  Cash Deposits ranged from State
		Cash withdrawals all at State Lling State
<u> </u>	MIRANDA.	Branches Utilized:

CONFIDENTIAL CLAIMANT0005324



CLAIMANT0005325